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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,902	09/24/2003	Rick Allen Burnett	13DV13973-2	8172

49305 7590 03/17/2005

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FAIRFAX, VA 22030

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/669,902	Applicant(s) BURNETT ET AL.	
	Examiner Joseph C Rodriguez	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-16 is/are pending in the application.
 4a) Of the above claim(s) 1-9 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 14-16 in the reply filed on 12/16/04 is acknowledged. The traversal is on the grounds that no serious burden exists. This is not found persuasive as the non-elected claim grouping contains multiple apparatus claims that are so broadly claimed as to require *multiple* searches outside of the sorting, class 209, and metal treating, class 164, arts. This type of expansive search is clearly burdensome.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-9 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim.

Specification

Claims 15 and 16 are objected to because of the following informalities:

Claim 14 reads "A method", thus the claims depending therefrom should read "**The** method".

Claim 14, line 8, should read "under control **of** the program".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the stroller" (ln. 2). There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bickford et al. ("Bickford")(US 4,779,163).

Bickford teaches a method comprising maintaining a fluidized bed in a tank (Fig. 1, col. 3, ln. 25-43); maintaining a controller (32, 33) and at least one program which runs on the controller (col. 4, ln. 6-28 teaching use of variable timing and different sequencing instructions); maintaining a crane (Fig. 2, support 29) which is controlled by the controller and supports a perforated cage (30); causing the controller to move the perforated cage to a sequence of positions "with" (i.e., within) the tank, under control [of] the program, and then remove the perforated cage from the tank (col. 3, ln. 54-col. 4, ln. 28). Here, a program can be regarded as a set of instructions, thus the different tests,

involving different timing and sequencing instructions being delivered to the controller, can be regarded as different programs that run on the controller (Id.).

Allowable Subject Matter

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

In particular, the movable baskets and associated systems taught by Eggert (US 1,860,022; Fig. 3) and Bonnemasou et al. (US 5,423,370; Fig. 1, 2) should be noted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is **703-308-8342**. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **703-872-9326** (After-Final **703-972-9327**).

The examiner's **UNOFFICIAL Personal fax number** is **703-746-3678**.

Further, the examiner is tentatively scheduled to move in April 2005 and the contact info at the new location will be as follows:

April 2005, Personal telephone number is 571-272-6942

April 2005, UNOFFICIAL Personal fax number is 571-273-6942

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

<http://pair-direct.uspto.gov>

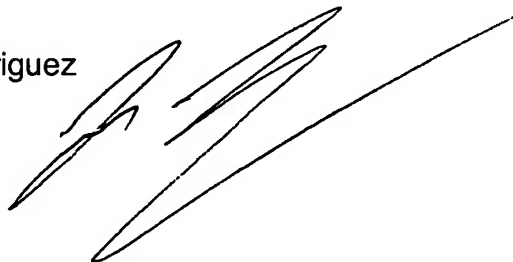
Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Signed by Examiner Joseph Rodriguez

jcr

March 14, 2005

A handwritten signature in black ink, appearing to be 'JR' followed by a long, sweeping horizontal line.